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October 17, 2007

Kelly Loyer, Hearing Officer
Members of the Hearing Panel
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Re: Post-Hearing Brief for the October 10, 2007 Class 4a & 4b Hearing

Dear Ms. Loyer and Members of the Hearing Panel:

I thank you for the opportunity to file this post-hearing brief. I have a few matters to discuss further.

First, the hearing should be focused specifically on the petitioner's issue. My testimony and research was developed to address the issue raised by petitioners and nothing more; to expand the hearing's scope beyond that is unfair.

I participated in the process of developing the alternative proposal put forth by Western United Dairymen, the Alliance and Milk Producers Council. The alternative proposal was agreed to by one of the broadest coalitions of producers and processors in recent times. Based on the information I was able to attain, the best estimate indicates that an additional \$21 million would have been transferred from producers to processors for the period September 2006-August 2007 had the alternatively proposed dry whey credit been in place. This voluntary surrender of revenue by producers is unprecedented and exemplifies the willingness and desire of producers to do their fair share in resolving the petitioner's problem as described in their petition.

Additionally, with respect to the dry whey issue, a statement made by the hearing panel that any decision made by the Department will create winners and losers and conditions where one party would lose their motivation to "negotiate" a reasonable compromise- I can only say that I have personal knowledge that producers and processors are at a level where earnest face to face negotiations have been agreed to. Any dramatic change in the current formula would severely jeopardize these negotiations and stifle creative solutions or new ideas.

Finally, even though plant capacity is not addressed in the petition on which the hearing was called, several processors raised this issue in their testimony. I agree that a lack of adequate capacity could potentially cripple the dairy industry in California. But, I also believe that the best way to address the problem is through a comprehensive solution proposed by the industry itself. The plant capacity issue is far too complicated to be dealt with by simply depooling a basic commodity. One can only speculate as to whether the action petitioned for would provide any incentive to expand capacity in California or simply transfer funds from producers to processors in order to fund expansion elsewhere.

Sincerely,

Ray Souza